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United States Government Accountability Office
Washington, DC 20548

November 30, 2010

Mr. Shay Assad
Director, Defense Procurement and Acquisition Policy
Department of Defense

Subject: *DOD Components Are Not Sending Required Information on Contract Awards to the Office of Public Affairs*

During the course of a recent engagement reviewing noncompetitive contracting,¹ we found that departments and agencies in the Department of Defense (DOD) are not submitting complete information, as required, to the Office of the Assistant Secretary of Defense for Public Affairs (OASD[PA]), which then posts the information on its Web site as a public announcement. President Obama has emphasized transparency and openness in how the government spends taxpayer dollars. We are bringing this issue to your attention due to your responsibility for acquisition and procurement policy matters in DOD.

The Federal Acquisition Regulation (FAR) requires contracting officers to make information on a contract action over a certain dollar amount publicly available on the same day the contract is awarded. The Defense Federal Acquisition Regulation Supplement (DFARS) further specifies that for contract actions over \$5.5 million, departments and agencies are to submit certain information to the OASD(PA) by the close of business the day before the date of the proposed award, including, “as a minimum”²

- (1) *contract data*, for example, contract number, face value of the action and total cumulative face value of the contract, description of what is being bought, and contract type;³
- (2) *competition information*, including number of solicitations mailed and number of bids received;
- (3) *contractor data*, such as name and place of performance;

¹ GAO, *Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received*, GAO-10-833 (Washington, D.C.: July 26, 2010).

² FAR 5.303, Announcement of contract awards. The FAR requires that information be provided on contracts over \$3.5 million unless another amount is specified in agency acquisition regulation. DFARS 205.303(a)(i) requires public announcement of all contractual actions, including modifications, that have a face value (excluding unexercised options) of more than \$5.5 million. DFARS 205.303(a)(ii) directs departments and agencies to submit certain information on the contract actions to the OASD(PA).

³ Contract types that may be used in acquisitions are defined in FAR Part 16 and include fixed-price, time-and-materials, or cost-reimbursement.

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- (4) *funding data* which include type of appropriation, fiscal year of the funds, and whether the contract is multiyear; and
- (5) *miscellaneous data*, such as the identification of the contracting office.⁴

According to officials at the OASD(PA), their practice is to post on their Web site the information they receive from the departments and agencies, making only minor editorial changes for style.⁵ They explained that the press, investors, and contractors all have an interest in DOD's contract awards and closely monitor the daily postings.

To obtain greater insight into the extent to which DOD military services and agencies are providing the OASD(PA) the information required by the DFARS, we analyzed the contract award announcements on the OASD(PA) Web site for the month of August 2010, focusing on the following specific information pertaining to each of the five required categories:

- contract type (*contract data* category),
- number of solicitations requested and bids received (*competition information* category),
- name and location of the contractor (*contractor data* category),
- fiscal year of the funds (*funding data* category) and
- the contracting office (*miscellaneous data* category).

Results

Our analysis revealed a pattern of contract award announcements that lacked the information required to be submitted to the OASD(PA) for one or more categories. Every military service and DOD agency that submitted a contract award announcement in August 2010 had at least one submission that did not meet the requirements. On the basis of this observation, we conducted a more detailed analysis of all 50 contract action announcements posted to the OASD(PA) Web site on August 6, 2010.

We found that 48 of the announcements posted on August 6, 2010, or 96 percent, did not include one or more of the five specific categories of information. For example, none of the 5 Air Force award announcements included contract type, number of solicitations requested and bids received, or the fiscal year of the funds. None of the 42 Army announcements included the fiscal year of funds. In addition, 2 Army announcements lacked information on the number of bids received and the contracting office, and another did not include the contract type. The 3 Navy announcements on that day, however, generally included the five categories, with only 1 entry missing competition information.

While the OASD(PA) processes the contract award announcements submitted from DOD agencies and the military services, OASD(PA) officials told us that, since OASD(PA) is a reporting and not a regulatory office, they only review the

⁴ According to DFARS 205.303(a)(ii)(D)(5), other types of miscellaneous data include known congressional interest and the information release date.

⁵ See www.defense.gov/contracts.

submissions for style and rely on each service or agency to ensure that the information submitted is correct and compliant with appropriate regulations.

Conclusion

In not providing OASD(PA) with complete information on contract awards, DOD's departments and agencies are not complying with DFARS requirements. Without this information, OASD(PA) is not able to provide full transparency to the public on DOD's contract awards.

Recommendation for Executive Action

We recommend that the Director, Defense Procurement and Acquisition Policy, instruct the departments and agencies to provide complete information on contract announcements over \$5.5 million to the OASD(PA), consistent with DFARS requirements.

Agency Comments and Our Evaluation

We provided a draft of this report to DOD. In comments provided via email, the Director, Defense Procurement and Acquisition Policy, concurred with the recommendation, stating that his office will issue a memorandum to DOD contracting officers reminding them of their responsibilities to include complete information when notifying the Office of Public Affairs of contract announcements. In addition, his office will conduct periodic checks of the information provided to the Office of Public Affairs by DOD departments and agencies.

Scope and Methodology

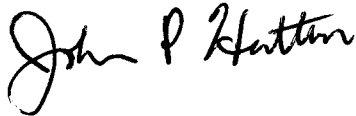
To determine the extent to which DOD departments and agencies are providing the Office of Assistant Secretary of Defense for Public Affairs (OASD[PA]) with complete information as required in DFARS 205.303 (a)(ii)(D), we analyzed a sample of contract award announcements from the archives on the DOD Web site (<http://www.defense.gov/contracts/>). According to officials from OASD(PA), their practice is to post the information they receive to this Web site. Our analysis included a high-level review of all announcements posted to the Web site in August 2010 and a more detailed analysis of announcements posted on August 6, 2010, to examine patterns of compliance or noncompliance with selected elements from each of the five required categories. Specifically, we looked for information on

- contract type (contract data category),
- number of solicitations requested and bids received (competition information category),
- name and location of the contractor (contractor data category),
- fiscal year of the funds (funding data category), and
- the contracting office (miscellaneous data category).

We also reviewed pertinent sections of the FAR and DFARS. We interviewed DOD officials from the OASD(PA) and Defense Procurement and Acquisition Policy and discussed the requirements in DFARS 205.303 with an official from DOD's legal counsel. We conducted our review from September to November 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We are sending copies of this report to the Assistant Secretary of Defense (Public Affairs) and interested congressional committees. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>. If you have any questions, please contact me at (202) 512-4841 or huttonj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this letter.

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